

FIRST REGULAR SESSION

# SENATE BILL NO. 49

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0428S.01I

## AN ACT

To repeal section 407.1095, RSMo, and to enact in lieu thereof two new sections relating to automated political solicitations, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 407.1095, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 407.1095 and 407.1106, to read  
3 as follows:

407.1095. As used in sections 407.1095 to 407.1110, the following words  
2 and phrases mean:

3 (1) **"Automated political solicitation", any prerecorded or**  
4 **synthesized voice message to promote, advertise, or campaign for or**  
5 **against a political candidate or political issue;**

6 (2) "Caller identification service", a type of telephone service which  
7 permits telephone subscribers to see the telephone number of incoming telephone  
8 calls;

9 [(2)] (3) "Residential subscriber", a person who has subscribed to  
10 residential telephone service from a local exchange company or the other persons  
11 living or residing with such person;

12 [(3)] (4) "Telephone solicitation", any voice communication over a  
13 telephone line from a live operator, through the use of ADAD equipment or by  
14 other means for the purpose of encouraging the purchase or rental of, or  
15 investment in, property, goods or services, but does not include communications:

16 (a) To any residential subscriber with that subscriber's prior express  
17 invitation or permission;

18 (b) By or on behalf of any person or entity with whom a residential

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 subscriber has had a business contact within the past one hundred eighty days  
20 or a current business or personal relationship;

21 (c) By or on behalf of an entity organized pursuant to Chapter 501(c)(3)  
22 of the United States Internal Revenue Code, while such entity is engaged in  
23 fund-raising to support the charitable purpose for which the entity was  
24 established provided that a bona fide member of such exempt organization makes  
25 the voice communication;

26 (d) By or on behalf of any entity over which a federal agency has  
27 regulatory authority to the extent that:

28 a. Subject to such authority, the entity is required to maintain a license,  
29 permit or certificate to sell or provide the merchandise being offered through  
30 telemarketing; and

31 b. The entity is required by law or rule to develop and maintain a no-call  
32 list;

33 (e) By a natural person responding to a referral, or working from his or  
34 her primary residence, or a person licensed by the state of Missouri to carry out  
35 a trade, occupation or profession who is setting or attempting to set an  
36 appointment for actions relating to that licensed trade, occupation or profession  
37 within the state or counties contiguous to the state.

**407.1106. 1. No person or entity shall make or cause to be made  
2 an automated political solicitation to any residential subscriber except  
3 when:**

4 **(1) The residential subscriber has given prior express invitation  
5 or permission; or**

6 **(2) The automatic political solicitation is preceded by a live  
7 operator who obtains the residential subscriber's consent prior to  
8 playing the automated message.**

9 **2. The attorney general may initiate proceedings relating to a  
10 knowing violation of this section. Such proceedings may include,  
11 without limitation, an injunction, a civil penalty up to a maximum of  
12 five thousand dollars for each violation and additional relief in any  
13 court of competent jurisdiction. The attorney general may issue  
14 investigative demands, issue subpoenas, administer oaths and conduct  
15 hearings in the course of investigating a violation of this section.**

16 **3. Any person who has received more than one automated  
17 political solicitation within any twelve-month period by or on behalf of**

18 the same person or entity in violation of this section may either:

19 (1) Bring an action to enjoin such violation;

20 (2) Bring an action to recover for actual monetary loss from such  
21 knowing violation or to receive up to five thousand dollars in damages  
22 for each such knowing violation, whichever is greater; or

23 (3) Bring both such actions.

24 4. No action or proceeding may be brought under this section:

25 (1) More than two years after the person bringing the action  
26 knew or should have known of the occurrence of the alleged violation;  
27 or

28 (2) More than two years after the termination of any proceeding  
29 or action arising out of the same violation or violations by the state of  
30 Missouri, whichever is later.

31 5. A court of this state may exercise personal jurisdiction over  
32 any nonresident or his or her executor or administrator as to an action  
33 or proceeding authorized by this section in the manner otherwise  
34 provided by law.

Bill ✓

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